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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 KIMBERLY ANN VOGTLI,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE, Commissioner of  
the Social Security Administration,

14 Defendant.  
15

CASE NO. 11-cv-05620-RJB-JRC

REPORT AND RECOMMENDATION  
ON UNOPPOSED MOTION FOR  
REMAND

16 This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28  
17 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,  
18 Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on  
19 Defendant's Motion to Remand Pursuant to Sentence Six, 42 U.S.C. § 405(g). (ECF No. 8.)


20 After reviewing Defendant's motion and the relevant record, the undersigned  
21 recommends that the Court grant Defendant's motion, and remand this matter to the  
22 Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g) because the recording of the  
23 hearing held on June 2, 2009 is incomplete and thus good cause exists to support the request for  
24

1 remand. This Court retains jurisdiction of this action pending further administrative development  
2 of the record. See 42 U.S.C. § 405(g); see also Shalala v. Schaefer, 509 U.S. 292, 297-300  
3 (1993).

4 On remand, the Appeals Council should remand the matter to an administrative law judge  
5 who shall afford the Plaintiff a *de novo* hearing. After remand, the Commissioner of Social  
6 Security shall modify or affirm the Commissioner's findings of fact or the Commissioner's  
7 decision, or both, and shall file with the Court any such additional or modified findings of fact  
8 and decision. 42 U.S.C. § 405(g). If the outcome of the *de novo* hearing is not fully favorable to  
9 Plaintiff, the Commissioner shall file with the Court a transcript of the additional record and  
10 testimony on which the Commissioner's action in modifying or affirming is based. Id. In  
11 addition, Plaintiff may seek judicial review by reinstating this case rather than by filing a new  
12 complaint. If the outcome is favorable to Plaintiff, the parties shall move this Court for entry of  
13 Judgment.

14 Given the facts and the unopposed nature of the motion, the Court recommends that the  
15 District Judge immediately approve this Report and Recommendation and order the case be  
16 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g).

17 Dated this 3rd day of November, 2011.

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19 J. Richard Creatura  
20 United States Magistrate Judge